

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2007-1847-IWD-E TCEQ ID: RN100241579 CASE NO.: 34957
RESPONDENT NAME: Sealy Concrete, Inc.

Page 1 of 2

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION

SITE WHERE VIOLATION(S) OCCURRED: Sealy Concrete, 4460 Northeast Interstate 10 Frontage Road, Sealy, Austin County

TYPE OF OPERATION: Ready-mix concrete manufacturing

SMALL BUSINESS: ☒ Yes ☐ No

OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired on April 14, 2008. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: None

TCEQ Enforcement Coordinator: Ms. Libby Hogue, Enforcement Division, Enforcement Team 3, MC 149, (512) 239-1165; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171

Respondent: Mr. Mike Michalke, Plant Manager, Sealy Concrete, Inc., 4460 Northeast Interstate 10 Frontage Road, Sealy, Texas 77474

Mr. William Schaffner, President, Sealy Concrete, Inc., 4460 Northeast Interstate 10 Frontage Road, Sealy, Texas 77474

Respondent's Attorney: Not represented by counsel on this enforcement matter

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Record Review Relating to this Case: October 30, 2007</p> <p>Date of NOE Relating to this Case: November 9, 2007 (NOE)</p> <p>Background Facts: This was a record review.</p> <p>WATER</p> <p>Failure to comply with the permitted effluent limitations for total suspended solids and oil & grease [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXG110293, Part III, Section A].</p>	<p>Total Assessed: \$4,750</p> <p>Total Deferred: \$950 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$3,800</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:</p> <p>a) In March 2007, began daily hand-sweeping of the parking lots to decrease debris in runoff;</p> <p>b) In June 2007, relocated stock piles of select fill top soil away from close proximity to Outfalls;</p> <p>c) In August 2007, upgraded existing silt fencing with sturdier materials and upgraded existing aggregate berms with fresh one and one-half inch hard rock; and</p> <p>d) On August 31, 2007, came into compliance with permitted effluent limits.</p>

Additional ID No(s): TXG110293



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision November 6, 2007

TCEQ

DATES	Assigned	12-Nov-2007	Screening	13-Nov-2007	EPA Due	
	PCW	14-Nov-2007				

RESPONDENT/FACILITY INFORMATION

Respondent	Sealy Concrete, Inc.		
Reg. Ent. Ref. No.	RN100241579		
Facility/Site Region	12-Houston	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	34957	No. of Violations	1
Docket No.	2007-1847-IWD-E	Order Type	1660
Media Program(s)	Water Quality	Enf. Coordinator	Libby Hogue
Multi-Media		EC's Team	Enforcement Team 3
Admin. Penalty \$	Limit Minimum	\$0	Maximum
			\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$5,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History	20% Enhancement	Subtotals 2, 3, & 7	\$1,000
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Notes	A 20% enhancement is recommended for having four NOV's with self-reported data.
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Culpability	No	0% Enhancement	Subtotal 4	\$0
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Notes	The Respondent does not meet the culpability criteria.
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Good Faith Effort to Comply	25% Reduction	Subtotal 5	\$1,250
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	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary	X	
N/A		(mark with x)

Notes	The Respondent achieved compliance on August 31, 2007.
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	0% Enhancement*	Subtotal 6	\$0
--	-----------------	------------	-----

Total EB Amounts	\$62	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$1,500	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$4,750
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	
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Final Penalty Amount	\$4,750
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STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty	\$4,750
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DEFERRAL

20% Reduction	Adjustment	-\$950
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes	Deferral offered for expedited settlement.
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PAYABLE PENALTY

\$3,800

Screening Date 13-Nov-2007

Docket No. 2007-1847-IWD-E

PCW

Respondent Sealy Concrete, Inc.

Policy Revision 2 (September 2002)

Case ID No. 34957

PCW Revision November 6, 2007

Reg. Ent. Reference No. RN100241579

Media [Statute] Water Quality

Enf. Coordinator Libby Hogue

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	4	20%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 20%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

A 20% enhancement is recommended for having four NOVs with self-reported data.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 20%

Screening Date 13-Nov-2007 Respondent Sealy Concrete, Inc. Case ID No. 34957 Reg. Ent. Reference No. RN100241579 Media [Statute] Water Quality Enf. Coordinator Libby Hogue Violation Number 1	Docket No. 2007-1847-IWD-E PCW <i>Policy Revision 2 (September 2002)</i> <i>PCW Revision November 6, 2007</i>																				
Rule Cite(s) Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXG110293, Part III, Section A																					
Violation Description Failed to comply with the permitted effluent limitations for Outfall 001A and Outfall 002A. See attached table.																					
Base Penalty \$10,000																					
>> Environmental, Property and Human Health Matrix																					
OR	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 10%;"></th> <th style="width: 20%;">Major</th> <th style="width: 20%;">Moderate</th> <th style="width: 20%;">Minor</th> <th style="width: 30%;"></th> </tr> </thead> <tbody> <tr> <td>Release</td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>Actual</td> <td></td> <td></td> <td style="text-align: center;">x</td> <td></td> </tr> <tr> <td>Potential</td> <td></td> <td></td> <td></td> <td></td> </tr> </tbody> </table> <div style="display: flex; justify-content: flex-end; margin-top: 5px;"> Percent 10% </div>		Major	Moderate	Minor		Release					Actual			x		Potential				
	Major	Moderate	Minor																		
Release																					
Actual			x																		
Potential																					
>> Programmatic Matrix																					
	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 10%;"></th> <th style="width: 20%;">Major</th> <th style="width: 20%;">Moderate</th> <th style="width: 20%;">Minor</th> <th style="width: 30%;"></th> </tr> </thead> <tbody> <tr> <td>Falsification</td> <td></td> <td></td> <td></td> <td></td> </tr> </tbody> </table> <div style="display: flex; justify-content: flex-end; margin-top: 5px;"> Percent 0% </div>		Major	Moderate	Minor		Falsification														
	Major	Moderate	Minor																		
Falsification																					
Matrix Notes	As a result of this violation, human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels protective of human health or environmental receptors.																				
Adjustment \$9,000																					
\$1,000																					
Violation Events																					
<div style="display: flex; justify-content: space-between;"> <div> Number of Violation Events 5 </div> <div> Number of violation days 122 </div> </div> <div style="display: flex; align-items: center; margin-top: 10px;"> <div style="width: 15%; text-align: right; font-size: small;"> mark only one with an x </div> <table border="1" style="width: 30%; border-collapse: collapse;"> <tbody> <tr><td>daily</td><td></td></tr> <tr><td>monthly</td><td></td></tr> <tr><td>quarterly</td><td style="text-align: center;">x</td></tr> <tr><td>semiannual</td><td></td></tr> <tr><td>annual</td><td></td></tr> <tr><td>single event</td><td></td></tr> </tbody> </table> <div style="margin-left: 20px;"> Violation Base Penalty \$5,000 </div> </div> <div style="border: 1px solid black; padding: 5px; margin-top: 10px; text-align: center;"> Five quarterly events are recommended, three for Outfall 001A and two for Outfall 002A. </div>		daily		monthly		quarterly	x	semiannual		annual		single event									
daily																					
monthly																					
quarterly	x																				
semiannual																					
annual																					
single event																					
Economic Benefit (EB) for this violation																					
Statutory Limit Test																					
Estimated EB Amount \$62	Violation Final Penalty Total \$4,750																				
This violation Final Assessed Penalty (adjusted for limits) \$4,750																					

Economic Benefit Worksheet

Respondent Sealy Concrete, Inc.
 Case ID No. 34957
 Reg. Ent. Reference No. RN100241579
 Media Water Quality
 Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Overtime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$1,500	31-Oct-2006	31-Aug-2007	0.8	\$62	n/a	\$62

Notes for DELAYED costs

The estimated cost for additional oversight which could have reduced or alleviated the exceedances. Date required is the date the noncompliance started and the final date is the date the Respondent achieved compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,500

TOTAL

\$62

ATTACHMENT

Effluent Limit Violation Table

Respondent Sealy Concrete, Inc.
 ID Number(s) TXG110293
 Docket Number 2007-1847-IWD-E
 Enf. Coordinator Libby Hogue

Corresponds to Violation Number:

1

EFFLUENT PARAMETER Outfall 001A

Permit Limit

	TSS daily max.	Oil and Grease daily max.
Month/Year	65 mg/l	15 mg/l
Oct-06	265	C
Apr-07	138	17.6
Jun-07	66	C
Jul-07	149	C

EFFLUENT PARAMETER Outfall 002A

Permit Limit

	TSS daily max.	Oil and Grease daily max.
Month/Year	65 mg/l	15 mg/l
Apr-07	138	17.6
Jun-07	66	C
Jul-07	149	C

milligrams per liter
 Total Suspended Solids
 Compliant
 maximum

mg/l
 TSS
 C
 max.

Compliance History

Customer/Respondent/Owner-Operator: CN600134365 Sealy Concrete, Inc. Classification: AVERAGE Rating: 3.53
 Regulated Entity: RN100241579 SEALY CONCRETE Classification: AVERAGE Site Rating: 0.22
 ID Number(s): WASTE WATER GENERAL PERMIT PERMIT TXG110293
 Location: 4460 NE I-10 FRONTAGE RD, SEALY, TX, 77474 Rating Date: 9/1/2007 Repeat Violator: NO
 TCEQ Region: REGION 12 - HOUSTON
 Date Compliance History Prepared: November 12, 2007
 Agency Decision Requiring Compliance History: Enforcement
 Compliance Period: November 12, 2002 to November 12, 2007
 TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
 Name: Libby Hogue Phone: 512-239-1165

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
 N/A

B. Any criminal convictions of the state of Texas and the federal government.
 N/A

C. Chronic excessive emissions events.
 N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

- 1 10/20/2006 (529968)
- 2 10/20/2006 (529969)
- 3 10/20/2006 (529970)
- 4 01/10/2007 (552820)
- 5 01/10/2007 (552821)
- 6 01/10/2007 (552822)
- 7 02/15/2007 (552819)
- 8 04/11/2007 (591214)
- 9 05/15/2007 (591219)
- 10 06/20/2007 (591224)
- 11 07/17/2007 (591212)
- 12 07/17/2007 (591213)
- 13 07/17/2007 (591215)
- 14 07/17/2007 (591216)
- 15 07/17/2007 (591217)
- 16 07/17/2007 (591218)
- 17 07/17/2007 (591220)
- 18 07/17/2007 (591221)
- 19 07/17/2007 (591222)
- 20 07/17/2007 (591223)
- 21 07/17/2007 (591225)
- 22 07/17/2007 (591226)
- 23 07/17/2007 (591227)
- 24 07/17/2007 (591228)
- 25 07/17/2007 (591230)
- 26 07/17/2007 (591231)
- 27 07/17/2007 (591232)
- 28 07/17/2007 (591234)

29	07/17/2007	(591235)
30	07/17/2007	(591236)
31	07/17/2007	(591237)
32	07/17/2007	(591238)
33	07/17/2007	(591239)
34	07/17/2007	(591240)
35	07/17/2007	(591241)
36	07/17/2007	(591242)
37	07/17/2007	(591243)
38	07/17/2007	(591244)
39	07/17/2007	(591245)
40	07/17/2007	(591246)
41	07/17/2007	(591247)
42	07/17/2007	(591248)
43	07/17/2007	(591203)
44	07/17/2007	(591204)
45	07/17/2007	(591205)
46	07/17/2007	(591206)
47	07/17/2007	(591207)
48	07/17/2007	(591208)
49	07/17/2007	(591209)
50	07/17/2007	(591210)
51	07/17/2007	(591211)
52	07/18/2007	(591229)
53	07/25/2007	(591233)
54	11/09/2007	(599573)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date 10/31/2006 (552820)

Self Report? YES

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)

Description: Failure to meet the limit for one or more permit parameter

Date 04/30/2007 (591219)

Self Report? YES

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)

Description: Failure to meet the limit for one or more permit parameter

Date 06/30/2007 (591229)

Self Report? YES

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)

Description: Failure to meet the limit for one or more permit parameter

Date 07/31/2007 (591233)

Self Report? YES

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)

Description: Failure to meet the limit for one or more permit parameter

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
SEALY CONCRETE, INC.
RN100241579**

§ **BEFORE THE**
§
§ **TEXAS COMMISSION ON**
§
§ **ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2007-1847-IWD-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Sealy Concrete, Inc. ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a ready-mix concrete manufacturing facility at 4460 Northeast Interstate 10 Frontage Road in Sealy, Austin County, Texas (the "Facility").
2. The Respondent has discharged industrial waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about November 14, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Four Thousand Seven Hundred Fifty Dollars (\$4,750) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Three Thousand Eight Hundred Dollars (\$3,800) of the administrative penalty and Nine Hundred Fifty Dollars (\$950) is deferred contingent upon the

Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:
 - a. In March 2007, began daily hand-sweeping of the parking lots to decrease debris in runoff;
 - b. In June 2007, relocated stock piles of select fill top soil away from close proximity to Outfalls;
 - c. In August 2007, upgraded existing silt fencing with sturdier materials and upgraded existing aggregate berms with fresh one and one-half inch hard rock; and
 - d. On August 31, 2007, came into compliance with permitted effluent limits.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have failed to comply with the permitted effluent limitations, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXG110293, Part III, Section A, as documented during a record review conducted on October 30, 2007, as indicated in the table below:

<i>EFFLUENT PARAMETER Outfall 001A</i>		
<i>Permit Limit</i>		
	TSS daily maximum	Oil & Grease daily maximum
<i>Month/Year</i>	65 mg/L	15 mg/L
Oct-06	265	c
Apr-07	138	17.6
Jun-07	66	c
Jul-07	149	c
<i>EFFLUENT PARAMETER Outfall 002A</i>		
<i>Permit Limit</i>		
	TSS daily maximum	Oil & Grease daily maximum
<i>Month/Year</i>	65 mg/L	15 mg/L
Apr-07	138	17.6
Jun-07	66	c
Jul-07	149	c
Name		Abbreviation
milligram per liter		mg/L
total suspended solids		TSS
compliant		c

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Sealy Concrete, Inc., Docket No. 2007-1847-IWD-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
3. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
4. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John Srdin

For the Executive Director

3/10/2008

Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Mike Micholke

Signature

1-24-08

Date

Mike Micholke

Name (Printed or typed)
Authorized Representative of
Sealy Concrete, Inc.

MANAGER

Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

1. The first part of the report is a general introduction to the subject of the study. It discusses the importance of the study and the objectives of the research.

2. The second part of the report is a detailed description of the methodology used in the study.

3. The third part of the report is a detailed description of the results of the study. It discusses the findings of the research and the conclusions drawn from the data.

4. The fourth part of the report is a discussion of the implications of the study. It discusses the significance of the findings and the potential applications of the research.

5. The fifth part of the report is a conclusion. It summarizes the main findings of the study and provides a final statement on the importance of the research.

6. The sixth part of the report is a list of references. It includes a list of all the sources used in the study.

7. The seventh part of the report is an appendix. It includes a list of all the data used in the study.

8. The eighth part of the report is a list of figures. It includes a list of all the figures used in the study.